COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Application No.481 of 2001
(Old No.109 of 1999)

1. Commissioner of Income Tax, Meerut
2. Dy. Commissioner of Income Tax (Assessment), Special Range, Dehradun.

..... Appellants

Versus

ONGC as representative of
M/s Zapata Offshore Company

..... Respondent

Dated: November 14, 2005

Mr. S.K. Posti, Advocate for the appellants.
Mr. J.P. Joshi, Advocate for the respondent.

Coram: Hon. P.C. Verma, J.
Hon. J.C.S. Rawat, J.

This appeal is against the order dated 30.11.1998, passed by the Income Tax Appellate Tribunal, (Delhi Bench 'D' New Delhi) in ITA No.1915(Del) of 1998. The dispute relates to the Assessment Year 1985-86.

2. The substantial questions of law raised in the appeal are as follows:

> "Whether the Tribunal was right in holding that by the virtue of notification No.GSR-307 (E) dated 31.03.1983 issued by the Govt. of India, assessee was exempted from payment of surtax?
>
> "Whether the Tribunal was right in holding that the Commissioner having not setup the point of multi stage grossing up in the notice U/s 263, his order directing the ITO to apply multistage grossing for determining the assessee's income was untenable?"

3. So far as question No.1 is concerned, this question has already been decided by a Division Bench of this Court {in which one of us (P.C. Verma,J.) was a member} in the case of "*Commissioner of Income Tax, Meerut and another Vs. M/s ONGC as agent of M/s Halliburton Offshore Services Inc. Tel Bhawan, Dehradun",* which was decided on 15.12.2005 in Income Tax Appeal No.115 of 2001. In the said judgment, the question framed in the said appeal was answered in favour of the Revenue.

4. The second question was also decided by a Division Bench of this Court in case of *Commissioner of Income Tax, Meerut and another Vs. ONGC as agent of Cooper Engineering Services International Incorporated and connected cases,* which was reported in (2003) 264 ITR 340. In the above judgment, this Court held that the Tribunal was right in holding that Multiple Stage Grossing up of income was not applicable to notional income under section 44BB read with section 195A of the Income Tax Act, 1961. Hence, this question also stands decided accordingly.

5. Following the above-mentioned judgment of a Division Bench of this Court, we dismiss this appeal.

(J.C.S. Rawat, J.) **(P.C. Verma, J)**

Rajeev Dang